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OFFICE OF PETITIONS

In re Application of
Christopher B. McKay, et. al.
Application No. 10/037,471
Filed: December 21, 2001
Attorney Docket No. MCW 306

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2003 and supplemented by facsimile transmission on November 25, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 8, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight March 8, 2003.

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition \$665 for the petition to revive fee, \$740 for four (4) months extension of time, oath/declaration, \$385 for the small entity basic filing fee, \$65 for the late filing of the oath/declaration, and \$387 for claim fees.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$740 extension of time submitted with the petition on October 14, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

A courtesy copy of the decision is being mailed to petitioner at the address listed on the instant petition.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Christopher B. McKay
P.O. Box S-3551
Carmel, CA 93921-0589

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REQUEST FOR PATENT FEE REFUND											
1 Date of Request: _____		2 Serial/Patent # <u>10037041</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
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<input checked="" type="checkbox"/>	Extension of Time	8	10/14/03	\$ 740							
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8 TO BE REFUNDED BY:											
10 REASON:		<input checked="" type="checkbox"/> Treasury Check									
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	Duplicate Payment	9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">--</td><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">5</td><td style="width: 20px; text-align: center;">4</td><td style="width: 20px; text-align: center;">0</td></tr></table>			1	1	--	1	5	4	0
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<input checked="" type="checkbox"/>	No Fee Due (Explanation): <u>E.O.T. filed outside six(6) months Statutory Pl. for reply.</u>										
11 REFUND REQUESTED BY:											
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SIGNATURE: <u>[Signature]</u>		PHONE: <u>703/308-6711</u>									
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